



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

November 7, 2005

REGISTERED MAIL – RR359 901 759 US

La Pianta LLC  
Attn: Mark Segale  
PO Box 88028  
Tukwila, WA 98188

Dear Mr. Segale:

RE: **Water Quality Certification Order 2877**

Corps Public Notice No. 200401358

Tukwila South Project; includes fill and excavation in wetlands and streams tributary to the Green River, and construction of off-channel habitat area on Green River; City of Tukwila, King County, Washington.

On November 8, 2004, La Pianta LLC submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed Tukwila South Project. The project proposes to fill 8.26 acres of wetlands and 1.07 acres of streams and ditches to develop a technology and business campus on approximately 250 acres. The U.S. Army Corps of Engineers issued a public notice on April 8, 2005 for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Alice Kelly at (425) 649-7128. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Geoff Tallent  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

GT:AK:sa  
Enclosure

cc: Sue Carlson, La Pianta  
Andy Kindig, A.C. Kindig and Co.  
Suzanne Skadowski, Corps  
Lisa Verner, Tukwila  
Larry Fisher, WDFW

Jeannie Summerhays, Ecology  
Kevin Fitzpatrick, Ecology  
Richard Robohm, Ecology  
Sheila Hosner, Ecology



<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 2877</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200401358</b>
<b>CERTIFICATION TO</b>	)	Development of Tukwila South Project; includes
<b>La Pianta LLC</b>	)	fill and excavation of 8.26 acres of wetlands and
in accordance with 33 U.S.C. 1341	)	1.07 acres of streams and ditches; mitigation
(FWPCA § 401), RCW 90.48.120, RCW	)	includes enhancement and rehabilitation of 29.16
90.48.260 and Chapter 173-201A WAC	)	acres of wetland, and creation of 1.99 acres of
	)	wetland as part of the excavation of a 7-acre
	)	off-channel habitat area on the Green River;
	)	located in King County, Washington.

TO: La Pianta LLC  
 Attn: Mark Segale  
 PO Box 88028  
 Tukwila, WA 98188

On November 8, 2004, La Pianta LLC submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice for a proposed water quality certification from Ecology was distributed by the U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on April 8, 2005.

The proposed project entails long-term development of the Tukwila South Project. The entire site is 498 contiguous acres, with 250 acres planned for development of a technology and business campus. The project boundaries are between S. 180<sup>th</sup> Street on the north, S. 204<sup>th</sup> Street on the south, the Green River on the east, and Interstate 5 and Orillia Road on the west. The proposed project will impact 8.26 acres of wetlands and 1.07 acres of stream channel and ditches by filling and/or excavating.

Mitigation for wetland impacts includes rehabilitation-enhancement of existing wetlands. Approximately 29.16 acres of wetlands will be graded and/or planted to improve wetland functions and values.

To mitigate for filling of 7,127 feet of streams and ditches, the Applicant proposes to construct the Green River Off-channel Habitat Restoration Area downstream of the S. 200<sup>th</sup> Street bridge on the right bank of the river. The 7-acre site will be excavated and graded such that about 3.2 acres will lie below the ordinary high water mark, including about 2.2 acres of open water habitat. The slope up to the new relocated levee will create 1.99 acres of wetland habitat between elevations 7.0 and 16.0 feet, providing additional compensation for wetland impacts. In addition, Johnson Ditch will be routed to a newly created stream channel with woody debris and riparian plantings.

## **AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

## **WATER QUALITY CERTIFICATION CONDITIONS:**

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

### **A. General Conditions:**

- A1. For purposes of this Order, the term "Applicant" shall mean La Pianta LLC and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: Federal Permit Coordinator, 3190 160<sup>th</sup> Ave SE, Bellevue, WA 98005. All submittals shall be identified with Water Quality Certification Order No. 2877.
- A3. Work authorized by this Order is limited to the work described in the JARPA. The Applicant shall reapply with an updated application if the information contained in the JARPA submitted on November 8, 2004 and the Corps of Engineers' Public Notice dated April 8, 2005 is voided

by subsequent changes to the project. Any future action at this project location, emergency or otherwise, that is not defined in the JARPA and public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

- A4. This Order shall be withdrawn if the project is revised in such a manner or purpose that Ecology determines the revised project requires a new authorization and public notice. The Applicant will then be required to reapply for a 401 Water Quality Certification by submitting an updated JARPA to Ecology.
- A5. Within 30 days of receipt of an updated JARPA, Ecology will determine if a modification to this Order is required.
- A6. This Order shall be withdrawn if the US Army Corps of Engineers does not issue a Section 404 permit.
- A7. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- A8. Copies of this Order and all related permits, plans, and approvals shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- A9. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
- A10. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.) or if additional conditions are necessary to further protect water quality.
- A11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
- A12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**B. Timing Requirements**

- B1. This Order is valid until all compliance requirements in this document have been met.

- B2. In-water work shall be subject to timing limitations imposed by Washington State Department of Fish and Wildlife (WDFW). Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by WDFW that fisheries resources may be adversely affected.

**C. Water Quality**

- C1. **No Impairment of Water Quality:** The Green River (WRIA #9) and Johnson Creek are classified as Class A waters of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- C2. The Green River has been identified on the current 303(d) list as exceeding state water quality standards for fecal coliform and temperature. This proposed project shall not result in further exceedances of these standards.
- C3. Instream Construction Water Quality Sampling and Monitoring: An Instream Construction Water Quality Monitoring Plan (Water Quality Monitoring Plan) shall be developed and implemented. "Instream construction" is defined as all work below the ordinary high water mark of the Green River and Johnson Creek; it includes construction of the off-channel habitat area and placement of habitat features (logs) in the Green River, and the new Johnson Creek channel construction and reconnection. **The Water Quality Monitoring Plan shall be submitted to Ecology for review and approval at least 60 days before construction is scheduled to begin in Spring 2006.** The plan shall include the following minimum requirements:
- a. Locations of samples: Locations of water quality sampling sites shall be identified and described in the plan and on a map. At a minimum, sampling shall take place at the point of compliance as specified in WAC 173-201A-110(3), which allows a temporary mixing zone for turbidity resulting from disturbance of in-place sediments. The allowed mixing zones are 300 feet in the Green River and 100 feet in Johnson Creek. Background samples shall be collected at a site just upstream of the work area.
  - b. Number of samples: Samples shall be collected a minimum of every two (2) hours throughout the first day of in-water construction activity at each location. Subsequent sampling is dependent upon monitoring results, but shall be a minimum of three (3) times per day during in-water activity if no exceedances are detected. Sampling and visual monitoring shall increase

if turbidity exceedances are observed or measured to be above the WAC 173-201A-110(3) temporary mixing zone criteria

- c. Equipment: Sampling for turbidity is to be accomplished using a turbidometer properly calibrated according to the operator's manual.
- d. Visual monitoring: Visual monitoring (inspections) of both the work area and the areas upstream and downstream of the work area shall take place during and between sampling efforts for turbidity. Inspections of these areas shall occur, at a minimum, during work activity and every one (1) hour throughout all in-water construction activity.
- e. Detection of Exceedances: Water quality standards for turbidity in Class A waters are as follows: Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-110(3) are detected, either by visual inspections or as a result of water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site Best Management Practices (BMPs) and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance in the stream or river (state waters).
- f. Notification of exceedances: Notification of exceedances of the criteria downstream of the point of compliance, either through visual inspections or water quality sampling, shall be made to Ecology within 24 hours of occurrence. Notification shall be transmitted to the Federal Permit Coordinator, via telephone (425) 649-7000, fax (425) 649-7098, and reference Order #2877. The Applicant shall, at a minimum, provide Ecology with the following information:
  - 1) A description of the nature and cause of noncompliance, including the quantity and quality of any unauthorized discharges;
  - 2) The period of noncompliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
  - 3) The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the noncompliance.

In addition, within five days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, photographs, and any other pertinent information.

- g. Submittal of Reports: The results of all turbidity sampling shall be forwarded to Ecology weekly. Turbidity sampling results can be included in a weekly "status report" of information regarding completed construction for the previous week and proposed construction locations for

the upcoming week. Status reports shall be submitted to the Federal Permit Coordinator at fax (425) 649-7098 or US mail to 3190-160<sup>th</sup> Ave SE, Bellevue, WA 98005, with reference Order #2877. The weekly reports shall be submitted no later than Tuesday following the week samples were collected. Reports shall summarize the scope of inspections, the personnel conducting the inspection, the results of turbidity sampling (both visual and physical), the date of the inspection and/or sample event, summary of any non-compliance, and actions taken as a result of the inspections.

- h. The monitoring plan shall be updated as necessary to adequately represent site changes.

**D. Wetland Mitigation**

- D1. Impacts to wetland resources shall be mitigated through measures described in the following documents, except as modified by this Order:

Tukwila South Project Wetland Mitigation Plan, July 30, 2005, including the 7/05 revisions of Plan Sheets 1 through 8, except as replaced or amended by the documents listed below.

Letter from Sue Carlson to Alice Kelly, October 28, 2005, and attachments:

- Exhibit 1, Preliminary South Basin Pond Design and Johnson Creek Fish Mitigation Project;
- Exhibit 2, Mitigation Plan Off-Channel Area, with legend amended per "11-02-05 Revised Exhibit 2 Legend";
- Exhibit 3, Mitigation Area, showing expanded mitigation area and buffer protection for wetlands 10 and 11;
- The 15-page document, "Tukwila South Project Wetland Mitigation Plan, La Pianta Response and Mitigation Commitments to: 1. Ecology Review Comments on the July 30, 2005 Mitigation Plan (received August 15, 2005) and, 2. Mark-Up of Mitigation Plan Sheets (received August 31, 2005)."

E-mail message from A.C. Kindig & Co., November 2, 2005, and attachments:

- Letter from Andrew C. Kindig to Alice Kelly, November 2, 2005;
- The 5-page Word document (11-02-05 Wetland RESPONSE TABLES[REVISED].doc) containing the headings "Request #1," "Request #2," and "Request #3" and including the corrected and revised Tables 5-2 and 5-5;
- Revised Excel worksheet files for functional assessment scores (WAFAM Mitigation and Summary (11-2-05).xls);
- Revised Exhibit 2 legend (11-02-05 Revised Exhibit 2 Legend.pdf); and
- New Plan Sheet 8A showing a typical planting layout for forested wetland and for forested wetland in the view corridor (11-02-05 Sheet 8A Plant Revision pdf).

E-mail message from A.C. Kindig & Co., November 3, 2005, and attachments:

- Revised Tables 5-1, 6-4, and 8-2 and new tables 8-x and 10-x (in the document "11-03-2005 Wetland RESPONSE TABLES[FINAL].doc");

- New Table 7-x (in the document "11-03-2005 Mitigation schedule –Table 7-x.doc"); and
- "Reed Canarygrass Control" (in the document "11-03-05 Reed Canarygrass Control[FINAL].doc").

E-mail message from A.C. Kindig & Co., November 4, 2005, and attachment:

- New Tables 7-5 (in the document "11-03-2005 REVISED SCHEDULE-Table 7-5.doc").

D2. In addition to conditions contained in the above-referenced documents, the following requirements shall be conditions for wetland mitigation:

- a. Final Mitigation Plan: Before beginning any work with impacts on wetlands, the Applicant must prepare a Final Wetland Mitigation Plan that incorporates all of the revisions and additions described in the documents cited in Section D1 of this Order, including all responses and commitments in reply to Ecology's August 15, 2005, letter and August 31, 2005, mark-up of plan sheets.
  - Final plan sheets should show all buffer plantings, including those in the newly acquired land next to the west side of Wetland 11.

The Final Mitigation Plan shall be consistent with *Guidance on Wetland Mitigation in Washington State* (April 2004, Ecology Publication 04-06-013a) and approved by the U.S. Army Corps of Engineers. Two copies of the Final Mitigation Plan shall be provided to Ecology, along with documentation of any and all changes or additions required by the U.S. Army Corps of Engineers for issuance of the Section 404 permit. The Final Mitigation Plan shall be submitted to Ecology at least 30 days before the start of any construction on the site.

- b. Timing: Construction and installation of compensatory mitigation must occur as soon as practicable after wetland impacts begin, consistent with Table 7-5, "Proposed implementation timeline for each of the Wetlands 10 and 11 mitigation areas ....," and with Table 7-X, "General construction sequencing for Tukwila South mitigation projects."
- c. Record (As-Built) Reports: Record reports shall be provided within 60 days of completing grading and planting of each portion of the mitigation wetlands. These reports shall document the final design of the mitigation areas and include the following:
  - vicinity map showing site access;
  - final site topography;
  - drawings that clearly identify in plan view the locations and square footage of target USFWS (Cowardin) habitat classes (e.g., PSS, PFO) and the boundaries of all mitigation areas and buffers;
  - the installed planting scheme showing densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
  - photographs of the area taken from permanent reference points;
  - locations of photopoints, transects, and sampling sites; and



- a description of any changes to the mitigation plan that occurred during construction.

A copy of each Record Report shall be sent to Ecology within 60 days of completing construction of each portion of the mitigation wetlands, as specified by the construction schedule in the preceding item D2.a. The monitoring period for each portion will begin with Ecology's acceptance of that portion's Record Report.

- d. Field Supervision: A qualified wetland ecologist shall supervise grading and plant installation for wetland mitigation to ensure that proper elevations are achieved and that plants are placed appropriately.
- e. Permanent Protection: The Applicant shall provide documentation (such as a conservation easement) showing the means of permanent protection for the mitigation sites and buffers. This documentation shall be provided to Ecology by the time the first Record Report is due.
- f. Performance Standards: The performance standards detailed in Table 10-X shall include the minimum square footage of each USFWS habitat class to be achieved by the end of the monitoring period.
- g. Monitoring: Monitoring to ensure that performance standards are met shall be performed as described in Table 8-2, beginning with Year 0 after acceptance of the Record Report for each mitigation area and including Years 1, 2, 3, 5, 7, and 10. In addition, the performance standard that "areas will have no more than 15% cover of non-native invasive species during any monitoring year" requires evaluation of cover of such species in each monitoring year. The final monitoring report for each area will provide the square footage of each USFWS habitat class. **Copies of all monitoring reports shall be submitted to Ecology at 3190 – 160<sup>th</sup> Avenue SE, Bellevue, WA, 98008-5452**, as well as to the U.S. Army Corps of Engineers. The monitoring reports should reference Ecology Order #2877 and U.S. Army Corps of Engineers #200401358.
- h. Maintenance: Maintenance of the wetland mitigation sites is necessary to ensure that performance standards are met. Maintenance will be performed as described in Section 10 of the mitigation plan, as augmented by the revised new section, "Reed Canarygrass Control." Maintenance will include removal of non-native invasive species as needed throughout the wetland mitigation sites.
- i. Contingency Measures: The Applicant is responsible for the success of mitigation. Table 10-X, "Performance standards and contingency measures for the Tukwila South mitigation project," describes possible solutions to be implemented if the mitigation sites do not meet certain performance standards.
- j. Access: The Applicant shall provide access to the mitigation sites upon request by Ecology personnel for site inspections, monitoring, and data collection to ensure that the wetland construction, monitoring, maintenance, and contingency plans are implemented as approved.

**E. Fish and Aquatic Habitat Mitigation**

- E1. The Applicant shall comply with the Fisheries Mitigation Plan, Tukwila South Project prepared by Cedarock Consultants, Inc. dated April 13, 2005. The Applicant shall submit a revised mitigation plan to Ecology if any modifications to the mitigation plan are required by WDFW's Hydraulic Project Approval (HPA).
- E2. The Green River off-channel habitat area shall be constructed landward of a levee or berm, and stabilized with vegetation, before being connected to the Green River.
- E3. Johnson Creek shall be stabilized with gravel, vegetation, coir matting, or other measures before re-routing the stream into the newly created channel.
- E4. The performance standards and contingency measures in Table 10-X (dated Nov. 3, 2005), Goal 1, 1B and 1C shall apply to the riparian vegetation on restored Johnson Creek.
- E5. Monitoring of the riparian vegetation along Johnson Creek shall occur at the same time as monitoring of the wetland mitigation area. Reports shall be submitted at the same time as wetland mitigation reports.

**F. Conditions for Construction Activities**

- F1. The Applicant shall not commence construction on any part of the site until obtaining coverage under an NPDES Stormwater Permit for Construction Activity.
- F2. During construction the Applicant shall implement and comply with all stormwater requirements within the individual NPDES Stormwater Permit for Construction Activity to be issued for this project.
- F3. Direct discharge of construction stormwater to waters of the state (including wetlands) is prohibited. All stormwater from disturbed areas must be treated to comply with water quality standards before discharge and/or managed on-site.
- F4. The project shall be clearly marked/staked prior to commencing any construction activities. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated and marked with brightly colored construction fence, so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing that identifies sensitive areas boundaries (wetlands, streams, riparian corridors, buffers, etc.). Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
- F5. Erosion control devices shall be in place before starting construction.

- F6. The Applicant shall periodically inspect and maintain all erosion control structures. Inspections shall be conducted no less than every seven (7) days from the start of the project to final site stabilization. Daily inspections of sedimentation ponds shall occur during wet seasons. Additional inspections shall be conducted after rainfall events greater than 0.5 inches per 24-hour period, to ensure erosion control measures are in working condition. These inspections shall be conducted within 24 hours after the event. Any damaged structures shall be repaired immediately. If it is determined during the inspection that additional measures are needed to control stormwater and erosion, such measures shall be implemented immediately. Inspections shall be documented in writing and shall be available for Ecology's review upon request.
- F7. The Applicant shall establish and maintain a designated area for washing down equipment and vehicles so that wash waters are managed. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES permit or state waste discharge permit.
- F8. Vehicles shall be cleaned of mud, rock, and other material before entering a paved public highway so that tracking of sediment onto the highway does not occur.
- F9. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.

**G. Stormwater: Conditions for Permanent Stormwater Facility Design and Operation**

- G1. The number of townhomes shall not exceed 33% of the total number of residential units on the Tukwila South Project. This is to reduce the amount of fecal coliform potentially discharged in stormwater.
- G2. Low Impact Development: The Applicant shall implement the Low Impact Development proposals as described in Appendix E of the Tukwila South Project Water Quality Assessment Report by A.C. Kindig & Co. dated August 26, 2005, which includes the following:
- a) Use of landscaped amended soils filtration areas to treat 50% of the parking lots in the Gateway retail area located in Planning Areas B and C, and Planning Areas G and I.
  - b) Use of landscaped amended soils filtration areas to treat 5% of the impervious surface of the campus/office area.
- G3. North, northeast, and central basins: The design for the permanent stormwater facilities in the north, northeast, and central basins shall not increase the current rate of discharge through the existing pumping stations.
- G4. South basin stormwater design: The permanent stormwater facilities for the south basin shall be designed to be consistent with the 2005 King County Surface Water Design Manual, and shall be consistent with the technical memo dated October 31, 2005 by Goldsmith Engineers.

- G5. The Applicant shall submit a copy of the master drainage plan to Ecology at the same time as it is submitted to the City of Tukwila.
- G6. South basin stormwater monitoring: The Applicant shall submit a South Basin Permanent Facilities Stormwater Sampling and Monitoring Plan to Ecology for review and approval by May 7, 2006. This plan shall include all of the following elements, at a minimum:
- a) Protocol for sample collection and analysis of fecal coliform from the stormwater discharge from the south basin.
  - b) Sampling shall take place at 40%, 70%, and 90% buildout of developable land.
  - c) The monitoring location shall be the end of the discharge pipe, prior to mixing with the receiving waters.
  - d) Sampling shall occur within 24 hours after a minimum 0.5-inch in 24-hour storm event.
  - e) Results from the stormwater sampling and analysis shall be sent to both Ecology's Federal Permit Manager and the City of Tukwila Public Works Dept. within 30 days of each sampling event.
  - f) The monitoring plan shall follow Ecology's most recent version of the Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies.
  - g) Sampling frequencies shall be sufficient to determine compliance with Washington State Water Quality Standards criteria for bacteria in fresh waters (WAC 173-201A).
- G7. Fecal coliform non-compliance: If the monitoring results from the South Basin Permanent Facilities Stormwater Sampling and Monitoring Plan show that the water quality standards and the integrated treatment system performance standards are not being met, additional treatment and/or mitigation is/are required. The Applicant shall coordinate with the City of Tukwila, in consultation with Ecology, to identify and implement additional treatment resulting in the reduction of discharges of fecal coliform to the Green River within 180 days of the exceedance. The additional treatment may be offsite of the Tukwila South Project. The additional treatment shall contribute to the City of Tukwila's compliance with the upcoming municipal stormwater NPDES permit and the upcoming Green River TMDL Water Cleanup Plan requirements. The reduction in fecal coliform contribution to the Green River shall, at a minimum, completely and quantitatively offset any exceedance of the fecal coliform standard caused by the project. Any off-site treatment shall be coordinated with and approved by the City of Tukwila.
- G8. The Applicant shall comply with the Green River Pump Operations Procedures Plan (POPP), and shall not request an exception or exemption to the Plan in order to discharge directly into the Green River when flows in the Green River equal or exceed 12,000 cubic feet per second as measured at the Auburn gauge.
- G9. The applicant shall comply with Chapter 173-175 WAC regarding Dam Safety, if applicable.

## **H. Notification Requirements**

- H1. Preconstruction Meeting: Approximately 30 days before construction begins, the Applicant shall hold a pre-construction meeting that includes the Project Manager, Project Engineer(s), Lead Contractor(s), the environmental inspector (EI) or Pollution Control Officer (PCO), all necessary construction contractors, and State agency representatives including Ecology and Washington Department of Fish and Wildlife. During this meeting, site conditions, permit specifications and the requirements of the Stormwater Pollution Prevention Plan (SWPPP), the Erosion and Sediment Control Plans, and this Order will be reviewed. This will assist all involved parties in understanding the intent, specifications, and requirements of the permits and plans. The project construction schedule shall be provided at the meeting.
- H2. Notification of the preconstruction meeting shall be made to Ecology's Federal Permit Coordinator, 3190 160<sup>th</sup> Ave SE, Bellevue, WA 98008, telephone 425-649-7000, fax 425-649-7098. The notification shall include the Applicant's name, project name, meeting location, Order # 2877, contact and contact's phone number. Notification of the meeting shall occur at least 15 working days in advance of the meeting.
- H3. Annual Status Report: On December 31 of each year, the Applicant shall provide Ecology with a status report of the past year and current schedule of planned development for the coming year, until full buildout. The status report shall contain the following information:
- Summary of development that occurred during the year, including percent buildout.
  - List of documents submitted to Ecology during the year.
  - Description of proposed construction for the coming year.
  - Status of mitigation construction or monitoring.

## **I. Emergency/Contingency Requirements:**

- I1. The Applicant shall develop a spill prevention and containment plan for all aspects of this project, and shall have spill cleanup materials available on site.
- I2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant shall immediately take the following actions:
- Cease operations at the location of the violation.
  - Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - Notify Ecology of the failure to comply. All oil spills shall be reported immediately to

Ecology's 24-Hour Spill Response at 1-800-258-5990, **and** within 24 hours of spills or other events contact Ecology's Federal Permit Manager at 425-649-7000.

- d) Submit a detailed written report to Ecology within five days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples take, and any other pertinent information.

- I3. Compliance with the above requirements does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
- I4. In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant is instructed by Ecology or WDFW on what to do with them. Ecology or WDFW may require analyses of these samples before allowing the work to resume.
- I5. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
- I6. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.

**J. General Conditions:**

- J1. Environmental Inspector: The Applicant shall designate, or have on-call and readily accessible to the site, at all times, an environmental inspector (EI) or Pollution Control Officer (PCO). The EI or PCO shall be present on-site during all critical in-water construction activity. The EI or PCO shall be the primary point of contact for inspections, monitoring, discharge approvals, and reporting. The EI or PCO shall have adequate authority to ensure proper implementation of all the conditions within this Order, as well as immediate corrective actions necessary because of changing field conditions. If the EI or PCO issues a directive necessary to implement a condition of this Order or to prevent pollution to waters of the state, all personnel on site, including the Applicant's personnel, construction contractor and/or sub-contractor's employees, shall immediately comply with this directive.
- J2. Signed Statement of Understanding: The Applicant shall ensure that all appropriate Chief Inspectors, Supervisors and Contractors at the project site and mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each Chief Inspector, Environmental Inspector, Supervisor and Contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents, and approvals (see Appendix A). These statement shall be provided to Ecology no less than

seven (7) days before construction begins at the project or mitigation site. The Applicant shall also provide a similar signed statement to Ecology from each new supervisor or contractor hired or assigned after the project begins within 30 days of hiring.

**K. Appeal Process:**

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board  
4224 - 6th Avenue SE, Rowe Six, Bldg. 2  
P.O. Box 40903  
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, Washington 98504-7608

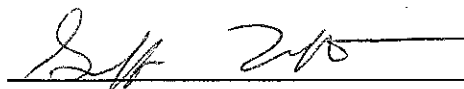
In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator  
Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

*For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B 320. These procedures are consistent with Ch. 43 21B RCW.

Dated November 7, 2005 at Bellevue, Washington.



Geoff Tallent, Interim Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington

Appendix A

**Tukwila South Project  
Water Quality Certification Order #2877**

**Statement of Understanding of  
Water Quality Certification Conditions**

I have read and understand the conditions of Order # 2877 Section 401 Water Quality Certification for the Tukwila South Project. I have also read and understand all permits, plans, documents and approvals associated with the Tukwila South Project referenced in this Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company



## Appendix B

**List of Required Submittals:**

<b>Condition Number</b>	<b>Name of Plan or Submittal</b>	<b>Description</b>	<b>Date Due</b>
C3	Water Quality (WQ) Monitoring Plan	Instream construction turbidity monitoring	60 days before start of construction
C3	Report of WQ sampling results	Turbidity data	Weekly during in-water construction in Green R. or Johnson Creek
C3(f) and I2	Report of any violation of 401 condition or water quality parameter	Any non-compliance, violation, or exceedance	Within 24 hours of occurrence; written report due within 5 days after event
D2(a)	Final Wetland Mitigation Plan	Incorporates all changes from 401 and 404	30 days before start of construction
D2(c)	Wetland Mitigation As-Built Report or Record Drawing	Survey drawings after construction	Dec. 31 of year constructed = Year 0
D2(g)	Wetland Mitigation Monitoring Reports	Per wetland mitigation plan	Year 1,2,3,5,7 and 10
G5	South Basin Permanent Facilities Stormwater Monitoring Plan	Protocol for sampling stormwater pond discharge	May 7, 2006
G5	Report of South Basin Stormwater sampling results	Fecal coliform data	After sampling at 40%, 70%, and 90% buildout
H1	Notification of Preconstruction Meeting		Minimum 15 working days prior to meeting
H3	Annual Status Report	Summary of construction and percent buildout	Yearly on December 31
J2	Statement(s) of Understanding of 401	Appendix A	7 days before construction begins